IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

WP(C).No. 10490 of 2005(W)

PETITIONER:

P.SETHU MADHAVAN,
S/O.PONNUTHARAKAN, VEERAMPOTTA,
ATHICODE P.O., CHITTUR TALUK,
NATTUKAL (VIA), PALAKKAD DISTRICT.

BY ADV. SRI.PRAVEEN.H.

RESPONDENTS:

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1. CHITTUR PRIMARY CO-OPERATIVE
AGRICULTURAL & RURAL DEVELOPMENT BANK LTD.
NO.P.619, CHITTUR P.O., PALAKKAD DISTRICT.

2. JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), PALAKKAD.

3. SPECIAL SALE OFFICER,
CHITTUR PRIMARY CO-OPERATIVE AGRICULTURAL
& RURAL DEVELOPMENT BANK LTD. NO.P.619,
CHITTUR, PALAKKAD DISTRICT.

BY ADV. SRI.GEORGE POONTHOTTAM
GOVERNMENT PLEADER SRI. P.K. RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE PASS BOOK ISSUED FROM THE CHITTUR BRANCH OFFICER, PALAKKAD CO-OPERATIVE LAND MORTGAGED BANK IN THE NAME OF SMT. LAKSHMIKUTTY.

EXT.P2: TRUE COPY OF THE DEATH CERTIFICATE ISSUED BY THE EXECUTIVE OFFICER, NALLEPILLY GRAMAPANCHAYATH ON 20.08.88.

EXT.P3; TRUE COPY OF THE REPRESENTATION ADDRESSED TO THE 1ST RESPONDENT BANK ON 10.03.05 WITH COPIES MARKED TO THE 2ND RESPONDENT AND 3RD RESPONDENT.

RESPONDENT'S EXHIBITS

EXT.R1(A): TRUE COPY OF THE DEMAND NOTICE DATED 24.4.1995.

EXT.R1(B): TRUE COPY OF THE DEMAND NOTICE DATED 2.2.1996.

EXT.R1(C): TRUE COPY OF THE SALE NOTICE DATED 23.02.1996.

/TRUE COPY/

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO.10490 OF 2005

DATED THIS THE 19th DAY OF MARCH, 2007

JUDGMENT

The petitioner is a legal heir of late Smt. Lakshmikutty, who availed of a loan from the 1st respondent Bank. According to the petitioner, subsequent to the death of Smt. Lakshmikutty he had paid off the entire amounts due under the loan but the bank has demanded further amounts. The petitioner contends that no further amounts are not payable by the petitioner. Therefore he seeks an order restraining the Bank from recovering any further amounts from him.

2. In view of the Circular issued by the Registrar as Circular No.57/06 in which the Registrar has directed all Co-operative Societies to waive penal interest etc. the petitioner seeks benefit of that circular which if given, the petitioner submits, no further amounts would be due.

3. A Division Bench in **Kallettumkara Service Co-operative Bank Vs. Registrar of Co-operative Societies(2005(3) KLT 485)** has held that the Registrar has no powers to issue such circular and to interfere with the contractual relationship between a

Society and its creditor as per a loan agreement. The petitioner also claims that the demand for further amount is barred by limitation since Smt. Lakshmikutty died in 1988. These are all matters, which the petitioner has to agitate before the proceedings to be initiated under Section 69 of the Kerala Co-operative Societies Act since resolution of such disputes would require ascertainment of facts on evidence, which cannot be done in a writ petition. Without prejudice to the right of the petitioner to raise a dispute under Section 69, this writ petition is disposed of.

S. SIRI JAGAN, JUDGE

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